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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	Case No. 21-CR-0121 JD
Plaintiff,	)	
v.	)	<b>STATEMENT REGARDING STATUS AND</b>
	)	<b>STIPULATION REGARDING CHANGE OF</b>
	)	<b>PLEA HEARINGS FOR DEFENDANTS RUSH</b>
	)	<b>AND YBARRA</b>
(1) JESSIE ALEXANDER RUSH,	)	
(3) SIMON SAGE YBARRA, and	)	Pretrial Conf.: May 19, 2022
(4) KENNY MATTHEW MIKSCH	)	Time: 1:30 p.m.
	)	
Defendants.	)	Trial: June 6, 2022
	)	Time: 9:00 a.m.
	)	
	)	Judge: Hon. James Donato

**BACKGROUND**

On February 22, 2022, the Court declined to accept the Rule 11(c)(1)(C) plea agreements entered into by the government and each of Defendants Rush, Ybarra, and Miksch. *See* Dkt. Nos. 114, 115, 116. The Court set trial for June 6, 2022 and the pretrial conference for May 19, 2022 at 1:30 pm. *Id.*

**NEXT DATES**

The following week, on March 3, 2022, the government proposed the following schedule to the Defendants for any pretrial motions (other than motions *in limine*, which would be due on May 5, 2022,

which is two weeks before the pretrial conference), including motions to dismiss or suppress, in anticipation of trial:

• **Monday, March 28:** deadline for any pretrial motions (other than MILs), including motions to dismiss or suppress;

• **Monday, April 11:** deadline for opposition to any pretrial motions (other than MILs);

• **Monday, April 18:** hearing re: any pretrial motions (other than MILs).

Defendant Rush and Ybarra: Defendants Rush and Ybarra take no position on the proposed schedule, as they have since reached a proposed resolution with the government. The government and Defendants Rush and Ybarra requested the Court's availability for change of plea hearings on March 21 for Ybarra and March 28, 2022 for Rush. The matter was set for change of plea for both Defendants Rush and Ybarra on March 28, 2022 by clerk's notice, but counsel for Ybarra will be out of the country from March 22 through April 19 to train and consult with judges, defenders, and prosecutors in Argentina; these events have been scheduled for months and tickets were purchased months ago.

Therefore, it is hereby stipulated by and between counsel for the United States and counsel for Defendants Rush and Ybarra that the matter be set for change of plea for Defendant Rush on **March 28, 2022 at 10:30 a.m.** and set for change of plea for Defendant Ybarra on **April 25, 2022 at 10:30 a.m.**

Defendant Miksch: Pursuant to the government's requests that counsel for Miksch provide his position regarding the government's proposed schedule, it appears that Miksch does not agree to the government's proposed schedule and may seek a status conference instead.

DATED: March 20, 2022

Respectfully submitted,

/s/  
ERIC CHENG  
FRANK RIEBLI  
Assistant United States Attorneys

/s/  
ADAM PENNELLA  
Counsel for Defendant Jessie Rush

/s/  
MARTIN SABELLI  
Counsel for Defendant Simon Ybarra

**[PROPOSED] ORDER REGARDING CHANGE OF PLEA HEARINGS  
AS TO DEFENDANTS RUSH AND YBARRA**

Based on the representations made to the Court, the stipulation of the parties, and for good cause shown, the Court sets the matter for change of plea for Defendant Rush on **March 28, 2022 at 10:30 a.m.**, and for Defendant Ybarra on **April 25, 2022 at 10:30 a.m.**

**IT IS SO ORDERED.**

DATED: March \_\_\_\_, 2022

THE HONORABLE JAMES DONATO  
UNITED STATES DISTRICT JUDGE

**[PROPOSED] ORDER REGARDING PRETRIAL MOTIONS SCHEDULE**

Based on the representations made to the Court and for good cause shown, the Court enters the following schedule:

- Any pretrial motions (other than motions *in limine*), including motions to dismiss or suppress, shall be filed by **March 28, 2022**.
- Responses or oppositions to any pretrial motions (other than motions *in limine*) shall be filed by **April 11, 2022**.
- A hearing regarding pretrial motions (other than motions *in limine*), if any, shall be held on **Monday, April 18, 2022 at 10:30 a.m.**

**IT IS SO ORDERED.**

DATED: March \_\_\_\_, 2022

THE HONORABLE JAMES DONATO  
UNITED STATES DISTRICT JUDGE